



1315 K STREET
MODESTO, CALIFORNIA 95354-0917
TELEPHONE (209) 527-6453
FAX (209) 527-0630

April 21, 2006

The Honorable A.G. Kawamura, Secretary
California Department of Food and Agriculture
1220 N Street
Sacramento, CA 95814

Re: Petition for a Class 1 Hearing

Dear Mr. Secretary:

The Board of Directors of Western United Dairymen approved the filing of the following Class 1 petition at its April 21, 2006 meeting. While we recognize the recent filing of a Class 1 petition by the Alliance of Western Milk Producers (Alliance), we feel there are additional items that must be considered when deciding whether or not a hearing has merit at this time.

As noted by the Alliance, pursuant to Section 62062.1 of the Food and Agricultural Code the Department shall determine on a calendar year basis whether or not California's Class 1 minimum farm prices are in reasonable relationship with those in neighboring states. Based on the analysis, the Secretary may hold a hearing to consider adjustments to the Class 1 price if the statewide weighted average Class 1 price paid to producers is found to not be in a reasonable relationship with the Class 1 prices paid to producers in contiguous states. Though the Department agreed with figures put forth in a previous petition submitted jointly by Western United Dairymen and the Alliance on December 16, 2005, the petition was denied.

An analysis of California's weighted average Class 1 price for milk testing 3.5 fat and 8.7 solids not fat in comparison to Class 1 producer prices in contiguous states for calendar year 2005 shows that California's statewide Class 1 price is not in a reasonable relationship with average Class 1 prices in surrounding areas. The table below shows the average 2005 producer Class 1 price in California and contiguous states and the level at which they exceed or fall short of the California weighted average Class 1 hundredweight price:

2005	Average	Difference from CA statewide
Arizona Central - Phoenix, Tucson	\$16.75	\$0.88
Oregon, Western - Medford, Portland	\$16.30	\$0.43
Southern California - Los Angeles	\$16.01	
California - Statewide Average ¹	\$15.87	
Nevada, Southern - Las Vegas ³	\$15.80	-\$0.07
No. CA - S.F., Nevada, Northwest Reno ²	\$15.74	
Arizona, Yuma	\$16.50	\$0.63

¹ Weighted by utilization

² The Northwest Nevada price is set equal to the Northern California price

³ The Southern Nevada price is set equal to the federal Class 1 mover plus \$1.40

In CDFA's denial of our first petition, the Department points out that, "In addition, the Department observed that the California average regulated Class 1 price exceeded the Southern Nevada Class I price by 7 cents per hundredweight for 2005." Our numbers above concur. Similarly, in a letter from the Dairy Institute urging denial of our petition, the Institute writes, "In its decision, the Department noted that in 2004 California Class 1 prices were below Class 1 prices in Oregon and in Arizona, but above Class 1 prices in Southern Nevada, and argued that therefore there was no basis for changing Class 1 prices at this time. For 2005, California Class 1 prices were below Class 1 prices in Oregon and in Arizona, but above Class 1 prices in Southern Nevada, therefore, there appears to be no basis for another Class 1 price hearing at this time."

If, in fact, the relationship between California's Class 1 price and Southern Nevada's price was used as justification to not call a Class 1 hearing, then we find it necessary to point out recent developments. First, a review of 2006 average Class 1 prices to date in California and surrounding areas shows the following.

2006, January-April	Average	Difference from CA statewide
Arizona Central - Phoenix, Tucson	\$14.97	\$1.17
Oregon, Western - Medford, Portland	\$14.52	\$0.72
Southern California - Los Angeles	\$13.94	
California - Statewide Average	\$13.80	
Nevada, Southern - Las Vegas	\$14.02	\$0.22
No. CA - S.F., Nevada, Northwest Reno	\$13.67	
Arizona, Yuma	\$14.72	\$0.91

It is interesting to note that the Southern Nevada price has, on average, **exceeded** the California statewide Class 1 price through April of 2006. Additionally, the disparities for the other surrounding areas have increased over 2005 levels. Clearly, the figures support, once again, that a Class 1 hearing is needed in order to bring California's Class 1 prices into more reasonable relationship to surrounding areas.

Finally, in the past, concern has also been raised over the competition from a nearby producer-distributor (PD) in Arizona capturing the Southern California Class 1 market. We too have been concerned about the ability of this PD to undercut California processors to capture market share. WUD was part of an unprecedented national coalition of producer and processor groups that supported the passage of legislation aimed to correct the regulatory loophole that allowed the Arizona bottler to escape regulation. As you are well aware, S. 2120, the Milk Regulatory Equity Act has recently been signed by the President. The bill will effectively close a loophole that had allowed regulatory inequities between federal and state milk marketing orders. The bill greatly reduces the once enjoyed competitive advantage held by the Arizona bottler. Clearly, a review of the Yuma, Arizona Class 1 price confirms this notion. Further, as the Alliance points out in their petition, due to the passage of S. 2120, California bottlers will no longer be required to pay compensatory payments when shipping into the Clark County, Nevada area.

Therefore, Western United Dairymen respectfully submits this petition for a hearing to make the following adjustments to the Class 1 price formulas in order to effectuate an approximate **44 cent per hundredweight increase** in the Northern and Southern California Class 1 prices:

The Honorable A.G. Kawamura

April 21, 2006

Page 3

In both the Northern California and Southern California stabilization plans, decrease the butterfat price by \$0.0200. Additionally, increase the Commodity Reference Price (CRP) adjuster used in the calculation of the Class 1 solids not fat and fluid carrier prices from the current value of +\$0.464 per hundredweight to a new value of +\$0.900 per hundredweight.

Attached are the modified Northern and Southern California Stabilization plans that reflect our proposed changes.

Thank you for your consideration of this petition and look forward to your response.

Very truly yours,

A handwritten signature in black ink, appearing to read "Michael L. H. Marsh". The signature is stylized with a large, looping initial "M" and a cursive script.

Michael L. H. Marsh, CPA
Chief Executive Officer

cc: A.J. Yates, Undersecretary
Kelly Krug, Director, Marketing Services
David Ikari, Chief, Dairy Marketing Branch
Board of Directors, Western United Dairymen

Southern California Stabilization and Marketing Plan (Plan 59), Proposed Changes:

Article III

Class Prices

Section 300.0. The minimum class prices for the milk fat and skim milk components of market milk, market cream, and market skim milk f.o.b. the pool plant or nonpool plant located within this Marketing Area where the milk was first received from producers, shall be as follows:

(A) The minimum monthly prices for components used for Class 1 shall be determined prior to the beginning of each month, using the following formulas and procedures, except as such formulas and procedures may be modified by Paragraph (H) of this Section:

(1) For all milk fat, not less than the price per pound computed by the formula using the butter price determined pursuant to Subparagraph (A)(5) of this Section, less a butter adjuster of ten cents (\$0.10), and the result multiplied by a yield factor of 1.2 **and deduct two cents (\$0.0200) from the result.**

(2) For all milk solids-not-fat, not less than the price per pound computed by the formula using the Commodity Reference price per hundredweight determined pursuant to Subparagraph (A)(4) of this Section, plus ~~forty-six and four-tenths cents (\$0.464)~~ **ninety cents (\$0.900)**, less 3.5 times the fat price per pound determined pursuant to Subparagraph (A)(1) of this Section, all multiplied by 0.76 and divided by 8.7.

(3) For all fluid carrier, not less than the price per pound computed by the formula using the Commodity Reference price per hundredweight determined pursuant to Subparagraph (A)(4) of this Section, plus ~~forty-six and four-tenths cents (\$0.464)~~ **ninety cents (\$0.900)**, less 3.5 times the fat price per pound determined pursuant to Subparagraph (A)(1) of this Section, all multiplied by 0.24 and divided by 87.8.

Northern California Stabilization and Marketing Plan (Plan 44), Proposed Changes:

Article III

Class Prices

Section 300.0. The minimum class prices for the milk fat and skim milk components of market milk, market cream, and market skim milk f.o.b. the pool plant or nonpool plant located within this Marketing Area where the milk was first received from producers, shall be as follows:

(A) The minimum monthly prices for components used for Class 1 shall be determined prior to the beginning of each month, using the following formulas and procedures, except as such formulas and procedures may be modified by Paragraph (H) of this Section:

(1) For all milk fat, not less than the price per pound computed by the formula using the butter price determined pursuant to Subparagraph (A)(5) of this Section, less a butter adjuster of ten cents (\$0.10), and the result multiplied by a yield factor of 1.2 **and deduct two cents (\$0.0200) from the result.**

(2) For all milk solids-not-fat, not less than the price per pound computed by the formula using the Commodity Reference price per hundredweight determined pursuant to Subparagraph (A)(4) of this Section, plus ~~forty-six and four-tenths cents (\$0.464)~~ **ninety cents (\$0.900)**, less 3.5 times the fat price per pound determined pursuant to Subparagraph (A)(1) of this Section, all multiplied by 0.76 and divided by 8.7.

(3) For all fluid carrier, not less than the price per pound computed by the formula using the Commodity Reference Price per hundredweight determined pursuant to Subparagraph (A)(4) of this Section, plus ~~forty-six and four-tenths cents (\$0.464)~~ **ninety cents (\$0.900)**, less 3.5 times the fat price per pound determined pursuant to Subparagraph (A)(1) of this Section, all multiplied by 0.24 and divided by 87.8, and then \$0.0031 per pound subtracted from the result.